

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

DAVID DAVIS,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 3:06-cv-00544-WHA
)	
PHENIX CITY, ALABAMA, <u>et al.</u>)	
)	
)	
Defendants.)	
_____)	

PLAINTIFF'S MOTION FOR CONTINUANCE

Plaintiff David Davis respectfully requests a continuance of the trial in conformity with this Court's Order of August 7, 2007. In support of this Motion, Plaintiff states as follows:

1. This case had been set for trial commencing August 20, 2007.
2. On August 6, 2007 Defendants Roberts and Hunter filed a Motion for Leave to Amend their Answer to plead the affirmative defense of qualified immunity. Such Defendants had not previously pled this defense in accordance with the Federal Rules of Civil Procedure.
3. On August 7, 2007 Plaintiff David Davis filed his Opposition to Defendants' Motion, noting the lack of reasonable cause for Defendants' failure to timely plead the affirmative defense, and the prejudice to the Plaintiff if Defendants' Motion were to be granted at this time.

4. Subsequently on August 7, 2007, this Court issued an Order, granting Defendants' Motion, while at the same time providing that Plaintiff may file a Motion for Continuance on or before August 8, 2007.

5. In accordance with the Court's Order and permission granted therein, and for the reasons set forth in this Motion and in Plaintiff's Opposition to Defendants' Motion, Plaintiff does respectfully seek a Continuance, and understands that the Continuance necessitates the case being set for the March 3, 2008 term of the Court.

Respectfully submitted,

s/ Douglas L. Steele
Thomas A. Woodley
Douglas L. Steele
Bryan G. Polisuk
WOODLEY & MCGILLIVARY
1125 15th Street, N.W.
Suite 400
Washington, D.C. 20005
Tel: (202) 833-8855
Fax: (202) 452-1090

Gary Brown, Esq.
FITZPATRICK & BROWN
Farley Building, Suite 600
1929 Third Avenue North
Birmingham, Alabama 35203
Tel: (205) 320-2255
Fax: (205) 320-7444

Counsel for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

DAVID DAVIS,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 3:06-cv-00544-VPM
)	
PHENIX CITY, ALABAMA, <u>et al.</u>)	
)	
Defendants.)	
_____)	

CERTIFICATE OF SERVICE

This is to certify that one true and accurate copy of Plaintiff's Motion for Continuance was electronically filed on the following counsel for defendants on this 9th day of August, 2007:

James R. McKoon
McKoon, Thomas, & McKoon
925 Broad Street
P.O. Box 3220
Phenix City, AL 36868

/s/ Douglas L. Steele
Attorney for Plaintiff